CROSS EXAMINATION

(a result oriented perspective)

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1.   Keep your ultimate goal in mind when considering every witness, piece of evidence, opening, closing, and CROSS.

      a.   What do you want the jury to remember and take away from this witness?

            i.   Ask yourself this question.   (Your answer may surprise you.)

2.   Three kinds of witnesses: The Good, The Bad, and The Ugly

      a.   The Good. *This is a rare witness (Sasquatch) and you are wondering, "Why did the Defendant call this witness?"*

            i.   The witness support or confirms all or the significant parts of your theory.   The jury gets to hear your story again. Perhaps just hit the highlights.

            ii.   The witness contradicts the Defense theory.

            iii.   The witness, attempting to help Defense, is obviously lying.

            iv.   The witness, attempting to help Defense, is offending the jury.

      b.   The Bad. This witness has no redeeming qualities. He does not support your

      theory and only supports the Defense theory. *You want the jury to ignore, dislike, or disbelieve this witness.*

            i.   Should you cross? If it will only reinforce the Defendant's theory, why? WHY CROSS?

            ii.   If you want to show that the witness is not believable –

- Be nice and professional – show respect
- Ask simple questions that the witness should be able to answer "Yes" to
- Move into fundamental truths – Guns are dangerous – drugs are bad
- Ask the question that drives home that they are wrong or lying

c. The Ugly. This witness helps and hurts your case. You want the jury to believe some but not all of what they have to say.

    i. Should you cross? Do you need to reinforce the corroborating info? Do you need to demonstrate the problems with the information this witness has provided that hurt your case? Do you have to do both? Should you do both?

    ii. Cross only the corroborating info – that is one approach

    iii. Cross only to discredit the witness and throw your baby out with the dirty bath water

    iv. Cross to do both – tricky stuff. To do this one must do his or her best to SHOW THE JURY WHY THE WITNESS's seemingly inconsistent testimony makes perfect sense considering the human experience? (Under the experiences, does this make sense?)

- Group together the parts of the witness's testimony you want the jury to believe
  - Use looping of case specific facts to reinforce these parts
  - Pause - break
- Next, group together the parts of the witness's testimony you want the jury to believe
  - Use looping of bias / emotional facts to reinforce why the witness may be unbelievable regarding this portion of the testimony